

REMARKS

In light of the above amendments and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1-4, 18-21, and new claims 40-43 are pending in this application.

Claims 1-4 and 18-21 are rejected under 35 U.S.C. §112, second paragraph as being indefinite to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 and 18-21 have been amended herein. Claims 1-4 and 18-21 as presented herein are believed to be in compliance with the requirements of §112, second paragraph. As such, withdrawal of the above 112 rejection is respectfully requested.

Claims 1-4 and 18-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,892,900 to Ginter in view of U.S. Patent No. 6,778,760 to Kagle and U.S. Patent No. 6,017,157¹ to Garfinkle.

Independent claim 1, as amended herein, recites in part as follows:

"... a reception dealer for accepting a request for a sale of audio data representative of a song...

said reception dealer being operable to transfer said audio data representative of the song and said photographic digital image data which corresponds to the song to a portable player so as to enable said thumbnail image and said audio data to be simultaneously played thereon." (Emphasis added.)

¹ Although the Examiner asserted that U.S. Patent No. 6,017,187 was relied upon the in rejection, Applicants respectfully submit that the Examiner had made an error and that the Examiner meant to rely on U.S. Patent No. 6,017,157.

In explaining the rejection, the Examiner appears to rely on Kagle for disclosing the transfer of audio data and, in particular, col. 2, lines 18-61 and Fig. 1 thereof. It is respectfully submitted the portions of Kagle applied by the Examiner (hereinafter "Kagle") do not teach the above recited features of claim 1.

That is, in Kagle, there does not appear to be any disclosure that the audio data is representative of a song and that the photographic digital image data corresponds to the song. Accordingly, claim 1 is believed to be distinguishable from the applied combination of Ginter, Kagle, and Garfinkle.

For reasons similar or somewhat similar with regard to claim 1, amended independent claim 18 is believed to be distinguishable from the applied combination of Ginter, Kagle, and Garfinkle.

Claims 2-4 and 19-21 depend from one of independent claims 1 and 18, and, due to such dependency, are believed to be distinguishable from the applied combination of Ginter, Kagle, and Garfinkle for at least the reasons previously described.

New claims 40-43 are submitted herein. Such claims depend from one of independent claims 1 and 18, and, due to such dependency, are believed to be distinguishable from the applied combination of Ginter, Kagle, and Garfinkle for at least the reasons previously described.

As it is believed that all of the rejections set forth in the Official Action have been overcome, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

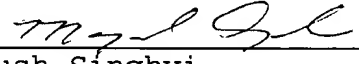
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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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